



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON, D.C. 20370-5100

ELP
Docket No. 7381-00
1 December 2000

[REDACTED]
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[REDACTED]
[REDACTED]
Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 November 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 2 November 1994 for four years at age 19. You were advanced to OSSN (E-3) and served for more than 20 months without incident. However, during the four month period from July to October 1996, you received three nonjudicial punishments (NJP) for four periods of unauthorized absence totalling about 20 days and breaking restriction. As a result of these three NJPs and two other adverse actions, you were reduced in rate to OSSR (E-1).

You were discharged under other than honorable conditions by reason of misconduct due to a pattern of misconduct on 28 October 1996. The discharge processing documentation is not on file in the record.

On 12 October 1999, the Navy Discharge Review Board (NDRB) determined that your discharge was improper since you were not

counseled on your deficiencies and warned that further misconduct could result in administrative separation. The NDRB recharacterized your service to a general discharge under honorable conditions and changed the reason and authority for discharge to "Secretarial Authority."

Regulations authorize the assignment of an RE-4 reenlistment code to individuals separated by reason of misconduct or "Secretarial Authority."

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and letters of reference. The Board also considered your contentions that when you were denied leave when your wife had cancer; you went UA; and when you told the command you needed additional time until she got better, the command discharged you. Whether these same contentions were made to the NDRB at the time of its review could not be determined by the Board. Your contentions are unsupported by any corroborating medical evidence regarding the seriousness of your wife's condition or by any other evidence that you were unjustly denied leave. The Board believed three NJPs in only 24 months of service provided sufficient justification to warrant assignment of an RE-4 reenlistment code. The Board concluded the discharge as upgraded and the reenlistment code were proper and no further changes are warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director